# SIKKIM

# GOVERNMENT GAZETTE

## EXTRAORDINARY
## PUBLISHED BY AUTHORITY

**Gangtok** **Wednesday 21st May 2025** **No. 150**


**GOVERNMENT OF SIKKIM**
**COMMERCIAL TAXES DIVISION**
**FINANCE DEPARTMENT**
**GANGTOK**

**No. 20/2024-GST/SIKKIM** **Date: 08th October, 2024**

**NOTIFICATION**

In exercise of the powers conferred by section 164 of the Sikkim Goods and Services Tax Act, 2017 (9 of 2017), the State Government, on the recommendations of the Council, hereby makes the following rules further to amend the Sikkim Goods and Services Tax Rules, 2017, namely: —

1. (1) These rules may be called the Sikkim Goods and Services Tax (Second Amendment) Rules, 2024.

   (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Sikkim Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 36, in sub-rule (3), after the words "suppression of facts", the words and figures "under section 74" shall be inserted.

3. In the said rules, in rule 46, with effect from 1st day of November, 2024,–

   (a) after clause (s), the second proviso shall be omitted;

   (b) in the third proviso, for the words "Provided also that in the case of", the words "Provided further that in the case of" shall be substituted;

4. In the said rules, after rule 47, the following rule shall be inserted with effect from the 1st day of November, 2024, namely:-

   "47A. Time limit for issuing tax invoice in cases where recipient is required to issue invoice.– Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3) of section 31 by a

registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.".

5. In the said rules, , in rule 66, in sub-rule (1), after the word, letters and figure "FORM GSTR-7", the words ", on or before the tenth day of the month succeeding the calendar month," shall be inserted with effect from the 1st day of November, 2024.

6. In the said rules, in rule 86, in sub-rule (4B), in clause (b), the words, brackets and figures "in contravention of sub-rule (10) of rule 96," shall be omitted.

7. In the said rules, in rule 88B, in sub-rule (1), after the word and figures "or section 74", the words, figures and letter "or section 74A" shall be inserted with effect from the 1st day of November, 2024.

8. In the said rules, in rule 88D, in sub-rule (3), after the words and figures "or section 74", the words, figures and letter "or section 74A" shall be inserted with effect from the 1st day of November, 2024.

9. In the said rules, in rule 89,–

(a) in sub-rule (4),–

(i) in clause (B), the words, brackets, figures and letters "other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both" shall be omitted;

(ii) in clause (C), the words, brackets, figures and letters ", other than the turnover of supplies in respect of which refund is claimed under sub- rules (4A) or (4B) or both" shall be omitted;

(iii) in clause (E), for the long line beginning with the word "excluding" and ending with the words "during the relevant period", the words "excluding the value of exempt supplies other than zero-rated supplies during the relevant period" shall be substituted;

(b) sub-rules (4A) and (4B) shall be omitted;

(c) in sub-rule (5), in the *Explanation*, in clause (a), the words, brackets, figures and letters " other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both" shall be omitted.

10. In the said rules, in rule 96, sub-rule (10) shall be omitted.

11. In the said rules, in rule 96B, in sub-rule (1), for the words and figures "section 73 or 74" the words, figures and letters "section 73 or section 74 or section 74A" shall be substituted with effect from the 1st day of November, 2024.

12. In the said rules, in rule 121, for the words and figures "proceedings under section 73 or, as the case may be, section 74", the words, figures and letter "proceedings under section 73 or section 74 or section 74A, as the case may be," shall be substituted with effect from 1st day of November, 2024.

13. In the said rules, in rule 142 with effect from the 1st day of November, 2024,—

(a) in sub-rule (1),—

(i) in clause (a), after the words and figures "or section 74", the words, figures and letter "or section 74A" shall be inserted;

(ii) in clause (b), after the words and figures "of section 74", the words, brackets, figures and letter "or sub-section (3) of section 74A" shall be inserted;

(b) in sub-rule(1A), after the words and figures "of section 74", the words, brackets, figures and letter "or sub-section (1) of section 74A" shall be inserted;

(c) in sub-rule (2), for the words, brackets and figures "or, as the case may be, tax, interest and penalty in accordance with the provisions of subsection (5) of section 74", the words, brackets, figures and letters "or clause (i) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty in accordance with the provisions of subsection (5) of section 74 or clause (i) of sub-section (9) of section 74A" shall be substituted;

(d) in sub-rule (2B), after the words and figures "or section 74", the words, figures and letter "or section 74A" shall be inserted;

(e) for sub-rule (3), the following sub-rule shall be substituted, namely: —

"(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or under clause (ii) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty under sub-section (8) of section 74 or under clause (ii) of sub-section (9) of section 74A, as the case may be, within the period specified therein, or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within seven days of the notice issued under sub-section (3) of that Section but before the issuance of order under the said sub-section (3), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an intimation in FORM GST DRC-05 concluding the proceedings in respect of the said notice.";

(f) in sub-rule (4), after the words and figures "of section 74", the words, brackets, figures and letters "or sub-section (6) of section 74A" shall be inserted.

(g) in sub-rule (5), after the words and figures "or section 74", the words, figure and letters "or section 74A" shall be inserted.

14. In the said rules, after rule 163, the following rule shall be inserted with effect from the 1st day of November, 2024, namely: -

"164. Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.– (1) Any person who is eligible for waiver of interest, or penalty, or both in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL-01** on the common portal, providing the details of the said notice or the statement, as the case may be, along with the details of the payments made in **FORM GST DRC-03** towards the tax demanded.

(2) Any person who is eligible for waiver of interest, or penalty, or both, in respect of orders mentioned in clauses (b) and (c) of sub-section (1) of section 128A, may file an application electronically in **FORM GST SPL 02** on the common portal, providing the details of the said order, along with the details of the payments made towards the tax demanded:

**Provided** that the payment towards such tax demanded shall be made only by crediting the amount in the electronic liability register against the debit entry created by the said order:

**Provided** further that if the payment towards such tax demanded has been made through **FORM GST DRC-03**, an application in **FORM GST DRC-03A**, as prescribed in sub-rule (2B) of rule 142, shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand, before filing the application in **FORM GST SPL 02**.

(3) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially on account of erroneous refund and partially for other reasons, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

(4) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially for the period mentioned in the said sub-section and partially for the period other than that mentioned in the said sub-section, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

(5) The amount payable under sub-rule (1) or sub-rule (2) shall be the amount that remains payable, after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.

(6) Any person who wishes to file an application under sub-rule (1) or sub-rule (2), may do so within a period of three months from the date notified under sub-section (1) of section 128A:

Provided that where an application in **FORM GST SPL-02** is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.

(7) The application under sub-rule (1) or sub-rule (2) shall be accompanied by documents evidencing withdrawal of appeal or writ petition, if any, filed before any Appellate Authority, or Tribunal or Court, as the case may be, to establish that the applicant is eligible for the waiver of interest or penalty or both, in terms of section 128A:

Provided that where the applicant has filed an application for withdrawal of an appeal or writ petition filed before the Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application under sub-rule (1) or sub-rule (2), the applicant shall upload the copy of such application or document filed for withdrawal of the said appeal or writ petition along with the application under sub-rule (1) or sub-rule (2), and shall upload the copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

(8) Where the proper officer is of the view that the application made in **FORM GST SPL-01** or **FORM GST SPL-02** is liable to be rejected as not being eligible for waiver of interest, or penalty, or both, as per section 128A, he shall issue a notice on the common portal to the applicant in **FORM GST SPL-03** within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.

(9) On receiving the notice under sub-rule (8), the applicant may file a reply to the said notice on the common portal in **FORM GST SPL-04**, within a period of one month from the date of receipt of the said notice.

(10) If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in **FORM GST SPL-05** on the common portal accepting the said application and concluding the proceedings under section 128A.

(11) In cases where the order in **FORM GST SPL-05** is issued by the proper officer under sub-rule (10).–

(a) in respect of an application filed in **FORM GST SPL-01** pertaining to a notice or statement referred to in clause (a) of sub-section (1) of section 128A, the summary of order in **FORM GST DRC-07** as per sub-rule (5) of rule 142 shall not be required to be issued by the proper officer, in respect of the said notice or statement;

(b) in respect of an application filed in **FORM GST SPL-02** pertaining to an order referred to in clause (b) or clause (c) of sub-section (1) of section 128A, the liability created in the part II of Electronic Liability Register, shall be modified accordingly.

(12) If the proper officer is not satisfied with the reply of the applicant, the proper officer shall issue an order in **FORM GST SPL-07** rejecting the said application.

(13) (a) In cases where notice in **FORM GST SPL-03** has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be.

(b) In cases where notice in **FORM GST SPL-03** has been issued, the proper officer shall issue the order in sub-rule (10) or sub-rule (12) within a period of three months from the date of receipt of reply of the applicant in FORM GST SPL-04, or within a period of four months from the date of issuance of notice in **FORM GST SPL-03** where no reply is received from the applicant.

Explanation.– For the purposes of this sub-rule, in cases referred to in the proviso to sub-rule (7), the time period from the date of filing of the application under sub-rule (1) or sub-rule (2) till the date of submission of the order for withdrawal of the appeal or the writ, as the case may be, shall not be included while calculating the time period under clause (a) or clause (b) of this sub-rule.

(14) If no order is issued by the proper officer within the time limit specified in sub-rule (13), then the application in **FORM GST SPL-01** or **FORM GST SPL-02**, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.

(15) (a) In cases where no appeal is filed against the order in FORM GST SPL-07 within the time period specified in sub-section (1) of section 107, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored.

(b) In cases where an appeal is filed against the order in FORM GST SPL-07 for rejection of application for waiver of interest, or penalty, or both, if—

(i) the appellate authority has held that the proper officer has wrongly rejected the application for waiver of interest, or penalty, or both, in **FORM GST SPL-07**, the said appellate authority shall pass an order in **FORM GST SPL-06** on the common portal accepting the said application and concluding the proceedings under section 128A; or

(ii) the appellate authority has held that the proper officer has rightly rejected the application for waiver of interest, or penalty, or both, in **FORM GST SPL-07**, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in **FORM GST SPL-02** in accordance with sub-section (3) of section 128A, shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in **FORM GST SPL-08**, within a period of three months from

the date of issuance of the order by the appellate authority in **FORM GST APL-04**, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.

(16) In cases where the taxpayer is required to pay an additional amount of tax liability as per the second proviso to sub-section (1) of section 128A, and such additional payment is not made within the time limit specified in the said proviso, the waiver of interest, or penalty, or both, under the said section as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, if any, shall become void.

(17) In cases where the taxpayer is required to pay any amount of interest, or penalty, or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, and the details of such amount have been mentioned in FORM GST SPL-05 or FORM GST SPL-06, the applicant shall pay the said amount of interest, or penalty, or both, within a period of three months from the date of issuance of the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, and where the said amount is not paid within the said time period, the waiver of interest, or penalty, or both, under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void.

*Explanation.*– For the purposes of this rule, the proper officer for issuance of order under this rule,–

*(a)* in cases where the application for waiver of interest, or penalty, or both is made with respect to a notice or statement mentioned in clause (a) of sub-section (1) of section 128A, shall be the proper officer for issuance of order as per section 73; and

(b) in cases where the application for waiver of interest, or penalty, or both, is made with respect to an order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, shall be the proper officer referred to in section 79 of the Act.".

**15.** In the said rules, for FORM GST REG-20, the following form shall be substituted, namely:

-

**"Form GST REG-20**

[See rule 22(4)]

Reference No.- ZA260821000033A

Date: DD/MM/YYYY

To

<Taxpayer Name>
<Taxpayer Address>
GSTIN/ UIN: <GSTIN number>

Show Cause Notice No.: <SCN number> Date: DD/MM/YYYY

**Order for Dropping the Proceedings for Cancellation of Registration**

This has reference to your reply filed vide ARN ———— dated in response to the show cause notice referred to above. Upon consideration of your reply and/or submissions made during hearing, the proceedings initiated for cancellation of registration stands vacated for the following reasons:

<<text>>

Or

This is in reference to Notice issued in REG-31 vide Reference Number <SCN number> dated DD/MM/YYYY for contravention of provisions of rule 10A of the Sikkim Goods Services Tax Act, 2017 (12 of 2017).

Since you have furnished the valid details of bank account on the common portal in the system, the proceedings initiated for cancellation of registration are hereby dropped.

Or

This is in reference to Notice issued in REG-31 vide Reference Number <SCN number> dated DD/MM/YYYY, for contravention of the provisions of clause (b) or clause (c) of sub-section (2) of section 29 of the Sikkim Goods Services Tax Act, 2017 (12 of 2017). Since you have filed all the pending returns which were due on the date of issue of the aforesaid notice, and have made payment of self-assessed tax, the proceedings initiated for cancellation of registration are hereby dropped.

Suspension of the registration stands revoked with effect from DD/MM/YYYY

Signature
< Name of the Officer>
Designation
Jurisdiction Place:
Date:".

**16.** In the said rules, in FORM GST REG-31, after paragraph 6, the following shall be inserted, namely: -

"OR

SUSPENSION DUE TO VIOLATION OF RULE 10A

1. It has been noticed that as per the provisions of rule 10A, requiring you to furnish the details of bank account within thirty days from the grant of registration, you have not furnished the valid details of bank account within thirty days from the date of grant of registration.

2. The discrepancies or anomalies *prima facie* indicate contravention of the provisions of the Sikkim Goods and Services Tax Act, 2017 (12 of 2017) and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies or anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of rule 21A.

4. Accordingly, you are requested to furnish the valid details of bank account on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy or anomaly or contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted after you furnish the valid details of bank account on the common portal within stipulated time.

6. You may please note that your registration may be cancelled in case you fail to furnish the valid details of bank account on the common portal within stipulated time or fail to furnish a reply within the stipulated time.

OR

1. It has been noticed that as per the provisions of rule 10A, requiring you to furnish the details of bank account within thirty days from the grant of registration. The information regarding bank account details furnished by you are not matching with the details available with bank.

2. These discrepancies or anomalies *prima facie* indicate contravention of the provisions of the Sikkim Goods and Services Tax Act, 2017(12 of 2017) and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies or anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of rule 21A.

4. Accordingly, you are requested to furnish the valid details of bank account on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy or anomaly or contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted after you furnish the valid details of bank account on the common portal within stipulated time.

6. You may please note that your registration may be cancelled in case you fail to furnish the valid details of bank account on the common portal within stipulated time or fail to furnish a reply within the stipulated time.

OR

SUSPENSION DUE TO VIOLATION OF RULE 21

1. It has been noticed that as per the provisions of clause (h) or clause (i) of rule 21, requiring you to file return under sub-section (1) of section 39, have not furnished for a continuous period of six months or for a continuous period of two quarters.

2. These discrepancies or anomalies *prima facie* indicate contravention of the provisions of the Sikkim Goods and Services Tax Act, 2017(12 of 2017) and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies or anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of sub-rule (2A) of rule 21A.

4. Accordingly, you are requested to file return under sub-section (1) of section 39 on the common portal or submit a reply to the jurisdictional tax officer within thirty days from the receipt of this notice, providing explanation to the above stated discrepancy or anomaly or contravention. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted after you file the returns under sub-section (1) of section 39 on the common portal.

6. You may please note that your registration may be cancelled in case you fail to file returns under sub-section (1) of section 39 on the common portal within stipulated date or fail to furnish a reply within the stipulated time."

**17.** In the said rules, in FORM GSTR-9, in the table, in Pt. III, in serial number 8, for serial number A and the entries relating thereto, the following serial number and entries shall be substituted, namely: -

| | | | | | |
|---|---|---|---|---|---|
| "A | ITC as per GSTR-2B (table 3 thereof) | <Auto> | <Auto> | <Auto> | <Auto>". |

**18.** In the said rules, in FORM GST APL-01, with effect from the 1st day of November, 2024.–

(a) in entry number 15,–

(i) in clause (a), in the Table, in the first column relating to "Particulars", in item (b) relating to "pre-deposit", for the brackets, letters, words and figures "(b) Pre- deposit (10% of disputed tax /cess but not exceeding Rs. 25 crore each in respect of CGST, SGST or cess or not exceeding Rs.50 crore in respect of IGST and Rs. 25 crore in respect of cess)", the brackets, letters, words, and figures "(b) Pre- deposit (10% of disputed tax /cess but not exceeding Rs. 20 crore each in respect of CGST, SGST, cess, and not exceeding Rs. 40 crore in respect of IGST)" shall be substituted;

(ii) in clause (b), in the opening portion, for the brackets, words, figures and letters " (pre-deposit 10% of disputed tax and cess but not exceeding Rs. 25 crore each in respect of CGST, SGST or cess or not exceeding Rs.50 crore in respect of IGST and Rs. 25 crore in respect of cess)", the brackets, words, figures and letters "(pre- deposit 10% of disputed tax and cess but not exceeding Rs. 20 crore each in respect of CGST, SGST, cess, and not exceeding Rs. 40 crore in respect of IGST)" shall be substituted.

**19.** In the said rules, in FORM GST APL-05, with effect from the 1st day of November, 2024,–

(a) in entry number 14,–

(i) in clause (a), in the Table, in the first column relating to "Particulars", in item (b) relating to "pre-deposit", for the brackets, letter, words and figures "(b) Pre-deposit (20% of disputed tax /cess but not exceeding Rs. 50 crore each in respect of CGST, SGST or cess or not exceeding Rs.100 crore in respect of IGST and Rs. 50 crore in respect of cess)", the brackets, letters, words and figures "(b) Pre- deposit (10% of disputed tax /cess but not exceeding Rs. 20 crore each in respect of CGST, SGST, cess, and not exceeding Rs. 40 crore in respect of IGST)" shall be substituted;

(ii) in clause (b), for the opening portion, the following shall be substituted, namely: -

"(b) Details of payment of admitted amount and pre-deposit of 10% of the disputed tax and cess but not exceeding Rs. 20 crore each in respect of CGST, SGST, cess and not exceeding Rs. 40 crore in respect of IGST.".

Table 3

(Amount in Rs.)

| 3 | Financial Year | Amount demanded in notice/ statement (A) | | | | | | | Out of amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of section 16(4) and not on any other grounds, and which has now become eligible as per section 16(5) or section 16(6), if any. (B) | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | IGST | CGST | SGST | CESS | Total Tax including Cess | Interest | Penalty | IGST | CGST | SGST | CESS | Total Tax including Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | **TOTAL** | | | | | | | | | | | | |

Table 4

| **4** | Amount paid through DRC-03 | | | | | |
|---|---|---|---|---|---|---|
| | Payment Reference No. | IGST | CGST | SGST | CESS | Total Tax including Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| | | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |
| | | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |
| | **TOTAL** | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |

Table 5

| | |
|---|---|
| 5 | **Declaration:**<br><br>1. I undertake that, I have not filed any writ petition against the said notice/ statement.<br><br>OR<br><br>I undertake that though I had filed a writ petition against the said notice/ statement, I have withdrawn the said writ petition or filed an application for withdrawal of the same and have attached the copy of withdrawal order or the application filed for withdrawal, with this application.<br><br>2. Further, I understand and agree that no appeal shall be filed against the order concluding demand proceedings, issued under section 128A, in any forum in the future.<br><br>3. I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties. |

Table 6

| | |
|---|---|
| 6 | **Verification:**I_____ (name of the authorised signatory), hereby declare that the information provided above is true and correct to the best of my knowledge and belief. I understand that any incorrect declaration or suppression of facts will render my application void and all benefits under Section 128A will be withdrawn. |

Table 7

| | |
|---|---|
| 7 | **Upload required documents** |
| | Self-certified copy of notice/ statement |
| | Proof of payment made through FORM GST DRC 03 |
| | Proof of withdrawal of writ petition or application filed for withdrawal of writ petition (if the order for withdrawal has not been issued) (where applicable) |
| | Any other document (please specify) |

Signature of authorised signatory

Name/Designation

Email address

Mobile No.

**Instructions:**

1. In entries 1 to 6 of Table 2, the details of the notice/ statement against which the application under section 128A is filed needs to be filled in by the applicant.
2. In case the notice/ statement is available on the common portal, Application Reference Number of the same needs to be filled. If the same is not available on the portal, the reference number of the manually issued notice/ statement needs to be filled.
3. In entry 3 of Table 2, the applicant has to choose the option 'section 73' from the dropdown, if the notice/ statement is issued under section 73 at the first instance, and the option 'section 74 read with Section 75(2)' in case the notice was initially issued under section 74 and was later deemed to be issued under section 73, based on the order of the Appellate Authority/ Appellate Tribunal or Court as per section 75(2).
4. In Table 3A, columns 2 to 8 will be auto filled, in case the notice/ statement is available on the common portal. If the same is not available on the portal, the details of the same are to be manually filled by the applicant.
5. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, applicant is required to ensure that such amount is deducted only where Input Tax Credit has been denied solely on account of contravention of section 16(4) and not on any other grounds.

**FORM GST SPL -02**
***[See rule 164(2)]***

Application for waiver of interest or penalty or both under section 128A, in respect of an order mentioned in clause (b) or clause (c) of sub-section (1) of the said section

Reference No.

Table 1

| S. No. | Particulars | | Remarks |
|---|---|---|---|
| 1 | a | GSTIN/Temporary ID/UIN | |
| | b | Legal Name of the Business (As mentioned in PAN No.) | <Auto> |
| | c | Mobile Number | <Auto> |
| | d | Email Address | <Auto> |
| | e | Address | <Auto> |
| | f | Jurisdiction | <Auto> |

Table 2

| 2. | S. No. | Details of the demand order | |
|---|---|---|---|
| | 1 | Demand Order No | |
| | 2 | Date of issuance of order | |
| | 3 | Section under which order is issued | Drop down |
| | 4 | Whether any appeal or writ petition is filed against order before the Appellate Authority/ Appellate Tribunal/ High Court/ Supreme Court | Drop down |
| | 5 | If Yes in '4',whether the order for withdrawal of appeal or writ petition is issued ? | Drop down |
| | 6 | Whether demand order involves demand of erroneous refunds | Drop down |

Table 3

(Amount in Rs.)

| 3 | Financial Year | Amount demanded in the order (A) | | | | | | | Out of the amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of section 16(4) and not on any other grounds, and which has now become eligible as per section 16(5) or section 16(6)(B) | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | IGST | CGST | SGST | CESS | Total Tax including Cess | Interest | Penalty | IGST | CGST | SGST | CESS | Total Tax including Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | |

Table 4

| 4 | Amount paid through payment Facility against demand order mentioned in Table 3 [including those paid through FORM GST DRC-03 and later adjusted through filing an application in FORM GST DRC - 03A] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Credit entry Reference No. | Reference number of FORM GST DRC-03 (where applicable) | Reference number of FORM GST DRC-03A (where applicable) | IGST | CGST | SGST | CESS | Total Tax including Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | | | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |
| | | | | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |
| | | Total | | <Auto> | <Auto> | <Auto> | <Auto> | <Auto> |

Table 5

| | |
|---|---|
| 5 | **Declaration:**<br><br>1. I undertake that, I have not filed any appeal or writ petition against the said order.<br><br>OR<br><br>I undertake that though I had filed an appeal / writ petition against the said order, I have withdrawn the said appeal/ writ petition (or) I have filed an application for withdrawal of the same and have attached the copy of withdrawal order or the application filed for withdrawal, with this application.<br><br>2. Further, I understand and agree that no appeal shall be filed against the order concluding demand proceedings, issued under section 128A in any forum in the future.<br><br>3. I also undertake that on issue of an order concluding demand proceedings issued under section 128A, no writ shall be filed against the order mentioned in Table 2 of this form.<br><br>4. If an application is filed/ has been filed by the department against the order mentioned in Table 2 or if any proceedings are initiated under sub-section (1) of section 108 against the said order, and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, issues an order enhancing my tax liability, I undertake to pay the additional amount of tax payable within three months from the date of the said order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, as per second proviso to sub-section (1) of section 128A.<br><br>5. I declare that all information provided by me is accurate and truthful. I understand that any incorrect declaration or suppression of facts will render this application void and lead to recovery proceedings for the outstanding dues along with applicable interest and penalties. |

Table 6

| | |
|---|---|
| 6 | **Verification:**<br>I_____ (name of the authorised signatory), hereby declare that the information provided above is true and correct to the best of my knowledge and belief. I understand that any incorrect declaration or suppression of facts will render this application void and the benefits provided under section 128A will not be valid. |

Table 7

| | |
|---|---|
| 7 | **Upload required documents** |
| | Self-certified copy of the order |
| | Proof of withdrawal of appeal / writ petition or application filed for withdrawal of appeal/ writ petition (if the order for withdrawal has not been issued) (where applicable) |
| | Proof of payment made towards demand / paid through FORM GST DRC-03 and adjusted through FORM GST DRC-03A. |
| | Any other document (please specify) |

Signature of authorized signatory

Name/Designation.....

Email address.....

Mobile No.....

**Instructions:**

1. In columns 1 to 6 of Table 2, the details of the order against which the application under section 128A is filed needs to be filled in by the applicant.

2. In case the order is available on the common portal, ARN number of the same needs to be filled. If the same is not available on the portal, the order number of the manually issued order needs to be filled.

3. In Table 3, columns 2 to 8 will be auto filled, in case the order is available on the common portal. If the same is not available on the portal, the details of the same are to be manually filled in by the applicant.

4. Similarly, the reference number of the credit entry (made in ELR- Part II) needs to be filled in column 1 of Table 4. In case the payment intended to be made towards the said demand order was originally paid through FORM GST DRC-03, and later adjusted through filing an application in FORM GST DRC - 03A, the reference numbers of the same are to be filled in columns 2 and 3, and the rest of the columns will be auto-filled.

5. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, applicant is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of section 16(4) and not on any other grounds.

**FORM GST SPL-03**

**Notice in response to an application filed under Section 128A**

*[See rule 164(8)]*

Reference No.: Date :

To

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Reference No. of FORM GST SPL -01 or FORM GST SPL-02 ..... dated .....

**Subject: Notice in response to application filed under section 128A-regarding**

1. Whereas, you have submitted an application under section 128A, declaring your outstanding dues and seeking waiver of interest and penalty in the FORM GST SPL-01/ FORM GST SPL-02 bearing reference no.....dated .....

2. Upon verification of your application and the details provided therein, your application is liable to be rejected for the following reasons:

- [Reason 1]

- [Reason 2]

OR/ AND

In this regard, it appears that the amount of tax is short paid by you as given below:

| Demand details (A) | | | | | | | Demand paid through FORM GST DRC 03 (in case of notice/ statement) or by crediting electronic liability register in case of orders | | | | | Out of amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of section 16(4) and not on any other grounds, and which has now become eligible as per section 16(5) or section 16(6), if any. | | | | | Demand Short Paid | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Notice id/ Order id No. | Finan-cial Period | IGST | CGST | SGST | CESS | Total Tax inclu-ding Cess | IGST | CGST | SGST | CESS | Total Tax inclu-ding Cess | IGST | CGST | SGST | CESS | Total Tax inclu-ding Cess | IGST | CGST | SGST | CESS | Total Tax inclu-ding Cess |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| | Drop down | | | | | | | | | | | | | | | | | | | | |
| | Drop down | | | | | | | | | | | | | | | | | | | | |

**3.** You are hereby required to show cause, along with necessary documents in FORM GST SPL-04, to support your claim, as to why your application no..... dated ..... should not be rejected.

**4.** You are also granted an opportunity for a personal hearing on [date and time] at [venue]. You may appear in person or through an authorized representative to present your case.

[Signature]

[Name of the Tax Officer]

[Designation]

[Jurisdiction]

[Address]

***Upload Attachment***

**FORM GST SPL-04**

*[See rule 164(9)]*

**Reply to notice issued under rule 164(8)**

Reference No: Date:

To

Proper Officer .....
Jurisdiction .....
Legal Name of the applicant.....
Address of applicant .....

Reference No of FORM GST SPL-03: ..... Dated .....

**Subject: Reply to the notice issued in respect of application filed under section 128A.**

Sir/Madam,

This is in reference to the notice issued in FORM GST SPL-03 *vide* no ..... dated ..... from your office.

The reply is as under:

| |
|---|
| |

**Enclosures:**

The following documents in respect of payment proof or additional submissions are enclosed for your reference:

- Document 1: [Taxpayer's Document 1]
- Document 2: [Taxpayer's Document 2]
- Document 3: [Taxpayer's Document 3]

**Verification:**

I _____ hereby solemnly affirm and declare that the information given hereinabove are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

[Signature of Authorised Signatory]
[Name of the of authorised signatory]
[Designation/Status]
[Date]

**FORM GST SPL -05**

*[See rule 164 (10)]*

**Order for conclusion of proceedings as per section 128A**

Reference No. .....

Date: .....

To,

GSTIN of applicant .....
Legal Name of applicant .....
Address of applicant .....

**Reference No.** of FORM GST SPL-01/ FORM GST SPL-02 ..... dated .....

**Subject: Order for approval of application submitted under Section 128A**

This has reference to your application with reference no. ..... dated ..... furnishing details/ information and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A.

OR

This has reference to your application with reference no. ..... dated ..... , and your reply in FORM GST SPL-04 with reference no. ..... dated ..... furnishing details/ information/ submission and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A .

2. Upon verification of the details provided in your application and the reply, where applicable, waiver of interest or penalty or both under section 128A, is allowed as under:

3. Demand Notice/ Demand Order Details:

a. Order No/ Notice No.:

b. Date of order/ Notice:

| Financial Year | Amount demanded in the notice/ statement/ order against which application under section 128A was filed (A) | | | | | | | Out of the amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of section 16(4) and not on any other grounds, and which has now become eligible as per section 16(5) or section 16(6) | Amount already paid towards the said notice/ statement / order | | | | | | | Amount of interest and penalty waived as per section 128A | | Remaining amount of interest and penalty, payable, if any, by the applicant (in cases referred to in sub-rule (3 and sub-rule(4) of rule 164) | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Place of Supply (PoS) | Act | Tax including cess | Interest | Penalty | Fee | Others | Tax including cess | Place of Supply (PoS) | Act | Tax including cess | Interest | Penalty | Fee | Others | Interest | Penalty | Interest | Penalty |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | CGST | | | | | | | | CGST | | | | | | | | | | |
| | SGST | | | | | | | | SGST | | | | | | | | | | |
| | IGST | | | | | | | | IGST | | | | | | | | | | |
| | Cess | | | | | | | | Cess | | | | | | | | | | |
| | TOTAL | | | | | | | | TOTAL | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | CGST | | | | | | | | CGST | | | | | | | | | | |
| | SGST | | | | | | | | SGST | | | | | | | | | | |
| | IGST | | | | | | | | IGST | | | | | | | | | | |
| | Cess | | | | | | | | Cess | | | | | | | | | | |
| | TOTAL | | | | | | | | | TOTAL | | | | | | | | | |

[Signature]

[Name of the Tax Officer]

[Designation]

[Jurisdiction]

[Address]

**Notes -**

Any incorrect declaration or suppression of facts will render this approval void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

**FORM GST SPL -06**

*[See Rule 164 (15)(b)(i)]*

**Order for conclusion of proceedings as per section 128A**

Reference No.....  Date: .....

To,

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Name of the authorised representative -

**Reference No.** of FORM GST SPL-01/ FORM GST SPL-02 ..... dated .....

**Reference No.** of FORM GST SPL-07 ..... dated .....

**Reference No.** of FORM GST APL-01 ..... dated .....

**Subject: Order for approval of application submitted under section 128A**

1. This has reference to your appeal with reference no. ..... dated ..... furnishing details/ information/ prayer and documents in support of your request for availing the benefit of waiver of interest or penalty or both under section 128A.

2. Upon verification of the details provided in your application and the reply, where applicable, waiver of interest or penalty or both under section 128A, is allowed as under:

3. Demand Notice/ Demand Order Details:

a. Order No/ Notice No.:

b. Date of order/ Notice:

| Financial Year | Amount demanded in the notice/ statement/ order against which application under section 128A was filed (A) | | | | | | | Out of the amount mentioned in (A), demand pertaining only to ITC which has been denied solely on account of contravention of section 16(4) and not on any other grounds, and which has now become eligible as per section 16(5) or section 16(6) | Amount already paid towards the said notice/ statement / order | | | | | | | Amount of interest and penalty waived as per section 128A | | Remaining amount of interest and penalty, payable, if any, by the applicant (in cases referred to in sub-rule (3 and sub-rule(4) of rule 164) | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Place of Supply (PoS) | Act | Tax Including cess | Interest | Penalty | Fee | Others | Tax Including cess | Place of Supply (PoS) | Act | Tax Including cess | Interest | Penalty | Fee | Others | Interest | Penalty | Interest | Penalty |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | CGST | | | | | | | | CGST | | | | | | | | | | |
| | SGST | | | | | | | | SGST | | | | | | | | | | |
| | IGST | | | | | | | | IGST | | | | | | | | | | |
| | Cess | | | | | | | | Cess | | | | | | | | | | |
| | TOTAL | | | | | | | | TOTAL | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | CGST | | | | | | | | CGST | | | | | | | | | | | |
| | SGST | | | | | | | | SGST | | | | | | | | | | | |
| | IGST | | | | | | | | IGST | | | | | | | | | | | |
| | Cess | | | | | | | | Cess | | | | | | | | | | | |
| | **TOTAL** | | | | | | | | | **TOTAL** | | | | | | | | | | |

[Signature]

[Name of the Tax Officer]

[Designation]

[Jurisdiction]

[Address]

**Notes -**

Any incorrect declaration or suppression of facts will render this approval void and may lead to recovery proceedings for the outstanding dues along with applicable interest and penalties.

**FORM GST SPL -07**

*[See rule 164(12)]*

**Order for Rejection of Application submitted under section 128A**

Reference No. ..... Date: .....

**To,**

GSTIN of applicant .....

Legal Name of applicant .....

Address of applicant .....

Reference is invited to:

| Particulars | Reference No. | Dated |
|---|---|---|
| Application in FORM GST SPL -01/ FORM GST SPL-02 | | |
| Show Cause Notice in FORM GST SPL -03: | | |
| Reply to the Show Cause Notice in FORM GST SPL -04: | | |

**Subject: Order for Rejection of Application submitted under section 128A**

This has reference to your application with reference no. ..... dated ..... furnishing details/ information and documents in support of your request for availing the benefit of waiver of interest and penalty under section 128A. The notice referred to above was issued to you to explain the reasons as to why the said application should not be rejected, for which you had furnished reply dated ...../ no reply was furnished by you.

2. Introduction:

3. Submissions, if any:

4. Conclusion:

Based on the verification your application with reference no. ..... dated ..... filed under section 128A, is hereby rejected.

5. Summary of rejection:

| **Order id/ SCN id** | **Reason for rejection** |
|---|---|
| | <Drop Down><br><br>*Options in <Drop Down>*<br><br>*1. Full payment not made*<br><br>*2. Payment made after the date notified in Section 128A.*<br><br>*3. Notice/ Order pertaining to sections other than section 73.*<br><br>*4. Appeal/ writ petition filed before Appellate Authority/ Appellate Tribunal/ High Court/ Supreme Court not withdrawn*<br><br>*5. Others, please specify.* |

[Signature]

[Name of the Tax Officer] .....

[Designation].....

[Office Name] .....

[Contact Information].....

**FORM GST SPL -08**

*[See rule 164(15)(b)(ii)]*

**Undertaking submitted under rule 164(15)(b)(II)**

Reference No: Date:

1. Legal Name of the applicant.....
2. Address of applicant .....
3. *GSTIN of the applicant:*
4. Reference No of FORM GST SPL-02: ..... dated .....
5. Reference No of FORM GST SPL-07: ..... dated .....
6. Reference No of FORM GST APL-04 passed with reference to FORM GST SPL-07 specified at serial number 5 above: ..... dated .....
7. Reference number of appeal filed originally but subsequently withdrawn ..... dated .....

**Subject: Undertaking submitted in respect of Rule 164(15)(b)(ii).**

Sir/Madam,

I hereby undertake not to file an appeal against the order of the appellate authority bearing reference number ..... dated ...., as specified at serial number 6 above, and accordingly I pray for restoration of my appeal filed *vide* reference number ..... dated .... as specified at serial number 7 above.

I _____ hereby solemnly affirm and declare that the information given hereinabove are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

[Signature of authorised signatory]
[Name of the of authorised signatory]
[Designation/Status]
[Date].".

[F. No. GOS/2009-2010/16-1C (9) VOL-III]

Manoj Rai
Commissioner
Commercial Taxes Division
Finance Department